

NO. COA01-644

NORTH CAROLINA COURT OF APPEALS

Filed: 20 August 2002

IN THE MATTER OF THE APPEAL OF:  
THE MAHARISHI SPIRITUAL CENTER  
OF AMERICA  
639 WHISPERING HILLS ROAD  
SUITE 112, BOONE, NORTH CAROLINA  
28607

Property Tax Commission  
No. 99 PTC 97

FROM THE LISTING AND TAXATION  
OF THE HEREIN DESCRIBED  
PROPERTY BY WATAUGA COUNTY  
FOR 1999

TYSON, Judge, dissenting.

The majority did not properly apply the standards for judicial review of decisions of the North Carolina Property Tax Commission ("Commission") and has ignored the burden imposed on the taxpayer by N.C. Gen. Stat. § 105-282.1. Accordingly, I respectfully dissent.

The Spiritual Center contends and the majority finds that the Commission's findings and conclusions are unsupported by competent, material and substantial evidence. This standard of review is known as the "whole record" test. N.C. Gen. Stat. § 105-345.2(5) (2001). The whole record test is not "a tool of judicial intrusion." *Rainbow Springs Partnership v. County of Macon*, 79 N.C. App. 335, 341, 339 S.E.2d 681, 685 (1986) (quoting *In re Rogers*, 297 N.C. 48, 65, 253 S.E.2d 912, 922 (1979)). This test does not allow a reviewing court to substitute its own judgment in place of the Commission's judgment even when there are two

CLERK OF APPEALS  
OF NORTH CAROLINA  
02 AUG 20 AM 7:18

reasonably conflicting views. *Id.* at 341, 339 S.E.2d at 684. The whole record test merely allows a reviewing court to determine whether the decision of the Commission is supported by substantial evidence. *Id.* at 341, 339 S.E.2d at 685.

"Substantial evidence is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion." *Id.* (quoting *Thompson v. Wake County Board of Education*, 292 N.C. 406, 414, 233 S.E.2d 538, 544 (1977)). "The credibility of the witnesses and resolution of conflicting testimony is a matter for the administrative agency to determine." *In re Appeal of General Tire, Inc.*, 102 N.C. App. 38, 40, 401 S.E.2d 391, 393 (1991) (citing *Commissioner of Insurance v. Rate Bureau*, 300 N.C. 381, 406, 269 S.E.2d 547, 565, *reh'g denied*, 301 N.C. 107, 273 S.E.2d 300-01 (1980)). This Court cannot overturn the Commission's decision if supported by substantial evidence. *Rainbow Springs*, 79 N.C. App. at 343, 339 S.E.2d at 686.

The Spiritual Center argues that it is entitled to an educational exemption. The statute sets forth four separate and distinct requirements which a taxpayer must prove to qualify for an education exemption from taxation:

(1) Owned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

N.C. Gen. Stat. § 105-278.4(a) (2001). The majority opinion correctly states that the taxpayer seeking exemption from property taxes has the burden of establishing entitlement to such an exemption. N.C. Gen. Stat. § 105-282.1(a) (2001).

#### I. Spiritual Center

The Commission concluded that the Spiritual Center's facilities are not wholly and exclusively used for educational purposes. The dispositive issue is whether this conclusion and the Commission's findings of fact are supported by substantial evidence.

The majority's opinion focuses on the expert testimony presented by the Spiritual Center and holds that this testimony was substantial evidence that the Spiritual Center met the fourth requirement to qualify for an exemption for educational purposes under N.C.G.S. § 105-278.4. Presuming this testimony is substantial evidence, the majority misapplies our standard of review. Such evidence would not warrant reversal of the Commission if there is any evidence of substance which tends to support the Commission's findings and conclusions. This Court is bound by such evidence, even though there is evidence that would have supported

a finding to the contrary. See *In re Appeal of Perry-Griffin Found.*, 108 N.C. App. 383, 393, 424 S.E.2d 212, 218 (1993) (this Court is not permitted to replace the Commission's judgment with its own judgment even when there are two reasonably conflicting views).

In this case, the Commission received conflicting expert testimony regarding whether the practice of meditation eight hours a day by the Purusha and Mother Divine is an educational activity and whether the Spiritual Center is an educational institution. Dr. Orme-Johnson, a psychologist, testified that participants in meditation are learning. Dr. McNeilly, a professor of psychology, testified that the Spiritual Center is "an academic institution." On the other hand, Dr. Bacharach, a professor of psychology and qualified as an expert witness for Watagua County, testified that the Spiritual Center is not an educational institution and that while the teaching of the TM technique of meditation over a seven-day period is an educational or learning activity, the practice of meditation eight hours a day would not be a learning activity. The Commission weighed the credibility of the witnesses, accepted the testimony of Dr. Bacharach and necessarily rejected the testimony of the other experts. The testimony of Dr. Bacharach was sufficient to support the Commission's finding and conclusion that the Spiritual Center's facilities are not "wholly and exclusively" used for educational purposes.

The granting of exemption from taxation to some necessarily increases the tax burden on others. See *In re Appeal of Worley*, 93

N.C. App. 191, 195, 377 S.E.2d 270, 273 (1989). Accordingly, "[s]tatutes exempting specific property from taxation because of the purposes for which [the] property is held and used . . . should be construed strictly . . . against exemption and in favor of taxation." *Id.* (quoting *Harrison v. Guilford County*, 218 N.C. 718, 721, 12 S.E.2d 269, 272 (1940)). This does not mean that exemption statutes should be construed narrowly or stingingly, but simply means that "everything [should] be excluded from [the statute's] operation which does not clearly come within the scope of the language used . . . ." *Id.* (citation omitted).

The plain language of N.C.G.S. § 105-278.4(a)(4) states "[w]holly and exclusively used for educational purposes by the owner . . . ." (Emphasis supplied). Merely providing some short and long-term meditation courses, as well as Vedic Science and Sanskrit courses, does not qualify the Spiritual Center for exemption. Mr. Souza, a member of the Purusha and vice-president of the Spiritual Center, testified that: (1) the purposes identified in the Articles of Incorporation were to create a home for the world peace professionals or Purusha and Mother Divine members, to help create world peace and harmony through the Maharishi Effect, and to create and offer to the public, educational programs in developing higher states of consciousness, (2) 1,000 Purusha members is their goal because ancient texts suggest that this will have a profound effect on the environment through the Maharishi Effect, and (3) part of the purpose and current use of the meditation halls within the Spiritual Center is

to create an "air of tranquility" or Maharishi Effect by having hundreds of experts in Maharishi's advanced Transcendental Meditation Sidhi program meditate as an amenity for the development of Heavenly Mountain Resort, which is situated between the two meditation halls. Thus, while the Spiritual Center does offer some educational activity that is not its primary purpose. The record clearly establishes that the primary purpose of the Spiritual Center is the practice of meditation by Purusha and Mother Divine members, many of which have been a part of their group for twenty years. See *In re Appeal of North Carolina Forestry Found., Inc.*, 296 N.C. 330, 250 S.E.2d 236 (1979) (nonprofit foundation owned a forest for the purposes of promoting improved forestry methods, forestry research, and education, but exclusive use element was not met because a paper company actually occupied and used the forest for commercial purposes, making the educational use merely incidental); see also *In re Appeal of Chapel Hill Day Care Center, Inc.*, 144 N.C. App. 649, 551 S.E.2d 172 (2001) (while some of the daycare's activities served to educate children enrolled, this was not enough to trigger tax exempt status under N.C.G.S. § 105-278.4 which requires an institution to have a "[w]holly and exclusively" educational purpose); *In re Appeal of Atlantic Coast Conference*, 112 N.C. App. 1, 434 S.E.2d 865 (1993) (athletic activities are a natural part of the education process and the role of the ACC is to promote college athletics).

## II. Ideal Girls' School

The Commission further concluded that the buildings used in

part by the Ideal Girls' School are not owned or occupied gratuitously by an educational institution, and thus not entitled to exemption. The Commission's findings and conclusion are supported by substantial competent evidence.

N.C. Gen. Stat. § 105-278.4(a)(1) requires that the property be "[o]wned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution)." I interpret the general phrase "educational institution" in relation to the express terms which follow it according to the dictates of *ejusdem generis*, a well established rule of statutory construction providing that "where general words follow a designation of particular subjects or things, the meaning of the general words will ordinarily be presumed to be, and construed as, restricted by the particular designations and as including only things of the same kind, character and nature as those specifically enumerated." *State v. Lee*, 277 N.C. 242, 244, 176 S.E.2d 772, 774 (1970) (citations omitted); *see also State v. Craig*, 176 N.C. 740, 744, 97 S.E. 400, 401 (1918) ("when particular and specific words or acts, the subject of a statute, are followed by general words, the latter must, as a rule be confined to acts and things of the same kind").

Here, the terms immediately following the phrase "educational institution" are usually, if not exclusively, aimed at education. The Ideal Girls' School is owned and operated by Maharishi Global Administration Through Natural Law ("MGANL"). Mr. Souza testified that the Restated Articles of Incorporation for MGANL state that

the first purpose of the corporation is "to promote throughout the world knowledge that life is the ever-evolving expression of Natural Law;" the second purpose listed is "to bring an end to all problems and suffering throughout the world through Maharishi Vedic Science and Technology;" the third purpose is "to work closely with other organizations dedicated to the advancement of the Maharishi Sthapatya Veda to create ideal housing;" the fourth purpose listed is "to establish facilities to introduce programs of Natural Law to everyone through education, health, economy, administration; the fifth purpose is to accept, hold, invest, reinvest, administer any gifts, legacies, etc.;" and the sixth purpose listed is "to perform any and all lawful acts." As with the Spiritual Center, the primary aim of MGANL is not education. In accordance with the dictates of *ejusdem generis*, I would conclude that the Ideal Girls' School does not fall within the scope of "educational institution" as that phrase is used in N.C.G.S. § 105-278.4(a) (1).

III. Conclusion

Upon considering the record as a whole, the taxpayer failed to meet its burden of proof. I would hold that the findings, conclusions, and decision of the Property Tax Commission are supported by competent, material and substantial evidence and must be affirmed.

A TRUE COPY  
CLERK OF THE COURT OF APPEALS  
OF NORTH CAROLINA

BY Patricia P. Wheeler  
DEPUTY CLERK

September 9, 2002